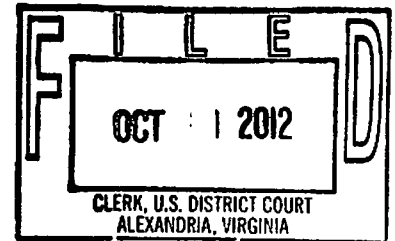


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division



UNITED STATES OF AMERICA,)
)
V.)
)
COLIN ROSE,)
)
)
Defendant.)
)

Criminal No. 1:97CR225

ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)

This matter comes before the Court on the Defendant's motion for reduction in sentence pursuant to 18 U.S.C. Section 3582(c)(2) based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u).

The Court having reviewed the Presentence Report and the drug quantity involved in this case finds that when Amendment 706 is applied with the other adjustments, the Defendant still yields an offense level of 46 and a guideline range of life.

The plain language of § 3582(c) states "The court may not modify a term of imprisonment once it has been imposed except that ... (2) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o)..." 18 U.S.C. § 3582(c). In its revisions to Section 1B1.10, the Commission, consistent with the statutory directive that a

reduction should occur only where the Defendant's sentencing range was lowered, made clear that the Court is not authorized to reduce a Defendant's sentence when a retroactive amendment does not result in lowering the applicable sentencing range for the Defendant. Specifically, subsection (a)(2)(B) states: "A reduction in the defendant's term of imprisonment is not consistent with this policy statement and therefore is not authorized under 18 U.S.C. § 3582(c)(2) if... an amendment listed in subsection (c) does not have the effect of lowering the defendant's applicable guideline range." U.S.S.G. § 1B1.10(a)(2)(B).

It appearing to the Court that the Defendant's guideline range is unaffected making him ineligible for relief under 18 U.S.C. § 3582(c)(2), it is hereby

ORDERED that the Defendant's motion is DENIED.

/s/
Claude M. Hilton
United States District Judge

Alexandria, Virginia
October // , 2012